

‘Report on the UK’s practical implementation of European OSH Directives during 2007-12’

IOSH submission to the Health and Safety Executive for its UK report to the European Commission



Submission

31.12.12



1. Introduction

The Institution of Occupational Safety and Health (IOSH) is the Chartered body for health and safety professionals, a registered charity and international NGO.

IOSH is pleased to provide comment to help inform the important Health and Safety Executive (HSE) report on practical UK implementation of European OSH Directives for the period 2007-12.

In the submission that follows, we provide background; a summary position; general comments; answers to the HSE questionnaire; references; and information about IOSH.

2. Background

The HSE is responsible for compiling the government's report on the implementation of European occupational health and safety (OSH) directives in the UK during the period 2007 – 2012. The report will cover Directive 89/391/EEC¹ on the introduction of measures to encourage improvements in the safety and health of workers' at work, known as the 'Framework Directive', its 'daughter' directives and some other associated directives. We note that in particular, HSE would like to gather stakeholder views on how the following directives have been practically implemented during 2007-2012:

- Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work (see page 8)
- Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace (see page 13)
- Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed- duration employment relationship or a temporary employment relationship (see page 15)
- Directive 92/58/EEC on the minimum requirements for the provision of safety and/or health signs at work (see page 17)
- Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (see page 18)
- Directive 94/33/EC on the protection of young people at work (see page 19)

The questionnaire² provided to stakeholders has been designed by HSE to gather views on the implementation of the above directives and the questions refer to the British regulations transposing the Directives. We note that while views on the implementation of other directives in scope have not been specifically requested, there is an opportunity to comment on them at the end.

3. Summary position

- IOSH believes that the current portfolio of health and safety legislation and Approved Codes of Practice (ACoPs) have contributed immeasurably to health and safety in the UK and will continue to do so.
- We support streamlining and simplification of regulations and associated guidance, but no lowering of standards.
- We feel the existing framework should be strengthened by better defining health and safety assistance competence requirements; making directors implied duties explicit; including an explicit duty for employers to investigate work-related accidents; and requiring serious work-related road traffic accidents to be reported under RIDDOR.
- We support the updating of regulations and guidance and an improvement in presentation to facilitate usage; for example, we recommend more use of graphics, video clips and case studies.
- We strongly support retention of ACoPs with their quasi-legal status and the degree of certainty they provide to duty holders in applying the transposing regulations.
- We urge government to provide more support to business, not less and to reinstate the HSE Infoline and proactive inspections.
- We provide a range of free resources to assist duty holders to comply with health and safety law, as well as offering awareness training.
- We believe that all duty holders within our goal-setting, risk-based system should be better supported through improved risk education – helping create a ‘risk intelligent’ society, stronger economy and sustainable world of work.
- We support the professional development of our members enabling them to provide valuable advice to duty holders.
- We advocate the inclusion of relevant professional bodies, such as IOSH, in the consultation process for policy and law development in Europe and building, sharing and applying the evidence-base.

4. General comments

IOSH is pleased to have the opportunity to comment on this review of EU OSH law implementation in the UK. We believe it is important that relevant professional bodies are included and that the consultation process is wider and more inclusive than the current tripartite system (government, employers and employees). We are keen to help build, share and apply the evidence-base for policy and practice in health and safety. IOSH has also been pleased to contribute suggested proposals for the development of the new EU OSH Strategy 2013-20.³

4.1 Fit for purpose

There have been two recent independent reviews of the health and safety laws in the UK. These have resulted in two reports: one by Lord Young of Graffham ('Common Sense, Common Safety');⁴ and one by Professor Ragnar Löfstedt ('Reclaiming health and safety for all').⁵ Both of them found the UK health and safety system broadly fit for purpose, as indicated by these two extracts:

- The 2010 Lord Young report highlighted that "There is no need for major changes to the framework provided by the Health and Safety at Work etc Act. Improvements to legislation are, of course, needed from time to time but the fundamental framework is still relevant. Many of the problems associated with the legislation have their origins in how the legislation is interpreted and implemented. These issues need to be addressed through non-legislative reforms and elsewhere in this report a number of measures have been identified to address these."⁴ He went on to suggest that the associated regulations be reviewed and consolidated to make them more accessible.
- The 2011 Professor Löfstedt report said "I have concluded that, in general, there is no case for radically altering current health and safety legislation. The regulations place responsibilities primarily on those who create the risks, recognising that they are best placed to decide how to control them and allowing them to do so in a proportionate manner. There is a view across the board that the existing regulatory requirements are broadly right, and that regulation has a role to play in preventing injury and ill health in the workplace. Indeed, there is evidence to suggest that proportionate risk management can make good business sense."⁵

Specifically regarding transposition of European legislation, Professor Löfstedt also commented "The increasing influence of the EU in health and safety regulation has provided a number of benefits to the UK. The more prescriptive nature of much of EU legislation may have helped small businesses who often welcome greater certainty over what they are required to do.⁶ Where EU Directives have been implemented, it has provided an opportunity to consolidate a number of previous sets of regulations. Furthermore, the Directives provide a level playing field across Europe, which can help competitiveness, particularly as UK health and safety law was already well established."⁵

And he went on to report that “A number of regulations introduced as a result of EU Directives were identified as particularly helpful in the responses I received and discussions I had. The evaluation of the Provision and Use of Work Equipment Regulations, originally introduced as part of the six-pack of regulations, suggests that it led to improved working practices without causing significant financial concerns.⁷ The evidence suggests another of the six-pack, the Manual Handling Operations Regulations, was also generally well received by duty holders,⁸ with a case study of one organisation reporting a six per cent reduction in sickness absence and 50 per cent fall in lost time due to accidents directly as a result of measures introduced to comply with the law.”⁹ Importantly, Löfstedt found no evidence of a ‘gold-plating problem’ with transposed legislation in Britain.

4.2 No lowering of standards

In the IOSH evidence¹⁰ to the 2011 Löfstedt review of health and safety legislation, we supported streamlining and simplification of regulations and associated guidance, but no lowering of standards. So we are against the proposed revocation of the Construction (Head Protection) Regulations and the Notification of Conventional Tower Cranes Regulations; the loss of 3 important ACoPs; cuts to reporting requirements under RIDDOR; loss of requirement for approved first-aider training; abolition of adventure activity provider licensing; and exempting certain self-employed from health and safety law.¹¹ We warmly welcome new regulations aimed at preventing injury from medical sharps. However, we believe the ‘sharps’ regulations should apply to all at-risk workers, as all health and safety legislation should. Singling out one sector (hospitals and healthcare) could wrongly imply to duty holders that other workers do not need to be protected, thereby lowering standards.¹²

4.3 Approved codes of practice

The UK has a system of approved codes of practice (ACoPs) that have a special quasi-legal status and support the implementation of regulations. We believe that they are an important part of the UK’s practical implementation of EU law and are therefore against the proposed loss of three important ACoPs¹³ as follows:

- L21: IOSH considers the Management of Health and Safety at Work Regulations (MHSWR) one of the most important Statutory Instruments we have, given the fundamental importance of risk management for health and safety at work and the requirement to implement the European Framework Directive (89/391/EEC).¹ We strongly believe it should be supported by an ACoP. We feel it is particularly important to retain the stated MHSWR ACoP requirement to adequately investigate the causes of accidents to ensure lessons are learned, given that currently this is not an explicitly stated requirement within the regulations.
- L116: farms are hazardous working environments and those children who may be present, e.g. as family members, workers, visitors or trespassers, need protection from serious harm.

Every year children are killed during agricultural work activities – 43 children under the age of 18 have been killed in the last 10 years. During the same period, many children have suffered injuries such as leg amputations and serious burns.¹⁴ The ACoP and its status should be retained to help signal the importance of prevention.

- L81: there is a major infrastructure project across the country to replace domestic gas main pipelines and we think it is important that L81 remains in order to provide succinct approved guidance to those involved in delivering this project. We believe that removing L81 would be a loss and that it should instead have its alignment to the requirements of the Pipeline Safety Regulations improved, as appropriate.

In brief, our concerns about removing ACoPs are:

- ACoPs are a fundamental part of ensuring health and safety performance in the UK and should be improved and updated – but not lost
- Loss of the ACoP ‘quasi-legal’ status would give the wrong message that health and safety management has become less important than previously considered
- Those less well-informed may wrongly believe that the regulations themselves are removed – causing less compliance
- Duty holders may need to spend more time searching for guidance, not less
- Regulators, OSH professionals and others will lose an authoritative reference point when providing advice and training
- The stated requirement to adequately investigate accidents would be lost (particularly unwelcome, given that it is not an explicit legal duty in MHSWR)
- SMEs would lose the assurance that ‘approved’ guidance provides, which is something they value
- As legal status of guidance can be helpful in resolving disputes (Gunningham and Bluff, 2009);¹⁵ loss of ACoPs could mean that such disputes are unresolved and/or there are more of them

In short – IOSH sees no benefit to removing ACoPs, but significant downside risk.

4.4 Need to strengthen framework

We also feel this UK report for the EU law review should take the opportunity to highlight opportunities to strengthen the existing UK health and safety framework in a number of areas, without creating new regulations. For example, better defining OSH assistance competence requirements; making directors’ implied duties explicit; including an explicit duty for employers to investigate work-related accidents; putting a reminder on ‘fit notes’ for employers to report work-related accidents; and requiring serious work-related road traffic accidents to be reported under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR). Our rationale is as follows:

- a) Defining competent assistance – IOSH, along with employer bodies and the Better Regulation Executive (BRE),¹⁶ has called for a clearer definition of competent occupational safety and health assistance in the in the official guidance to the MHSWR. We and others do not feel that the current legislation and guidance on this is adequate to satisfy stakeholder need or the stated requirement of the European Framework Directive 89/391/EEC (Article 7, ‘protective and preventive services’, paragraph 8)¹ requires that “Member States shall define the necessary capabilities and aptitudes...” and “They may determine the sufficient number referred to...”. Employers are required to ‘appoint one or more competent persons to assist’ with health and safety. Ideally, this will be available in-house from an employee, but some organisations may need or prefer external help from a consultant (or use a combination of in-house and external expertise). Unfortunately, the guidance on how to identify competent advice, supporting the MHSWR, is insufficiently clear.¹⁷ Regrettably; this has meant that individuals lacking relevant qualifications, experience and professional membership can operate as consultants. IOSH, employers, regulators and BRE have all expressed concern about this situation and this has led to the establishment of a national directory of accredited consultants (OSHCR),¹⁸ which we welcome as a step forward and have been closely involved in. However, the failure to properly define competent health and safety assistance in the guidance accompanying MHSWR remains an unresolved issue that we believe should be addressed.
- b) Explicit directors’ duties – given the essential leadership role of directors and their equivalents for setting direction, priorities and culture within organisations, we believe their implied health and safety responsibilities should be made explicit. IOSH was pleased to assist with the production of ‘Leading health and safety at work’ (INDG417)¹⁹ guidance for directors, issued by HSE and Institute of Directors in 2007. However, while we understand awareness has risen, implementation remains at baseline levels and is generally low.²⁰ A 2005 study found that a majority of director and manager respondents agreed that defining duties in law would be useful and a significant minority thought an increase in disqualifications would increase board level health and safety direction.²¹ We believe it would be helpful to specify the duties of directors and their equivalents in existing legislation (e.g. Health and Safety at Work etc Act (HSWA) and/or MHSWR). In an international study of nine different countries / jurisdictions, seven had legal requirements that imposed positive safety obligations on directors or senior managers of companies. None of the survey respondents suggested that the imposition of directors’ duties had resulted in ‘director flight’ or excessive ‘risk aversion’ (though this was not explicitly asked).²²
- c) Duty to investigate work-related accidents – though there is an implied duty to investigate accidents (as duty holders need to ensure their risk assessments and controls are valid and to reduce risks); we believe it would be helpful if this became an explicit duty (within MHSWR or RIDDOR) to help ensure that causes are established and lessons learned.
- d) RIDDOR – Britain needs to achieve improved levels of reporting, given that the last figures suggest only 43% compliance.²³ The newly designed ‘fit note’, with its focus on work-related

issues, has provided an opportunity to help remind employers of the requirement to report serious work-related accidents to the authorities. A short note could be placed on the 'fit notes' to that effect. The regulators need this information if they are to monitor trends and identify areas that require further resources. It is also key intelligence for prioritising enforcement activity. In addition, it has been estimated that up to a third of all road traffic accidents involve somebody who is at work at the time. It is important that these are reported under RIDDOR because this will help ensure that employers investigate the causes and prevent recurrences; that road risk management is included in the organisational performance statistics and improvement targets; and that there is greater regulator and government focus on their prevention and appropriate enforcement action can be taken.²⁴ These recommendations form part of the IOSH 10-point RIDDOR improvement plan,²⁵ as follows:

- A continued requirement for employers / self-employed to report occupational diseases and dangerous occurrences in all sectors (avoiding duplication); together with incapacitating injuries and major injuries, using an extended list
- Removal of the requirement for 'an accident' to have occurred before a work-related injury / death is reportable
- A review and clarification of the reporting of non-fatal accidents to members of the public (non-employees), to consider a change to reporting listed major injuries only
- Improved reporting of occupational diseases through RIDDOR, with:
 - GPs required to indicate on medical certificates whether they believe the injury or illness could be work-related
 - Improvements to guidance and to the reportable diseases list
 - Removal of the need to be currently engaged in 'listed work' for a long-latency occupational disease to be reportable
- More action to tackle under-reporting, including reinstatement of the full phone-in reporting facility
- A reminder on 'fit notes' for employers to report serious work-related accidents
- A suitable national enforcement code so that HSE and LAs enforce consistently and there is less 'undue fear' of reporting by certain duty holders
- A government database for sharing anonymised health and safety lessons from a range of accidents
- An explicit general legal requirement for duty holders to investigate reportable accidents
- A requirement for serious injuries and deaths from work-related road traffic accidents to be reportable under RIDDOR and improved guidance and inter-agency information sharing as appropriate

5. IOSH responses to the HSE questionnaire

The comments that follow are based on input received on this HSE consultation from a small number of IOSH members.

Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work

Transposed in the UK by:

- Health and Safety at Work etc. Act 1974
- Management of Health and Safety at Work Regulations 1999, as amended
- Safety Representatives and Safety Committees Regulations 1977
- Health and Safety (Consultation with Employees) Regulations 1996
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995, as amended
- Health and Safety (First-Aid) Regulations 1981
- Fire Precautions (Workplace) Regulations 1997, as amended
- Personal Protective Equipment at Work Regulations 1992

1) What has been your experience of employers' application of the Regulations to home workers, mobile workers, part-time workers, migrant workers or sub-contracted workers?

IOSH is given to understand that these regulations are more easily applied to these groups of workers by larger organisations than SMEs, which may have less time, resource and expertise available.

We understand that there is an issue with 'bogus self-employed' contractors working in construction, related to the Construction Industry (tax) Scheme (CIS) and suggest that those using sub-contractors should be reminded of their health and safety responsibilities.²⁶

The proposed removal of the ACoP supporting the MHSWR could be misinterpreted by SMEs as meaning that the regulations themselves have been removed, leading to less application of the regulations.

Given that MHSWR, RIDDOR, first-aid regulations are all transposing; our comments during recent consultations on these also pertain (see 4.2 'No lowering of standards' above).

2) *Are the Regulations flexible enough to accommodate the different sizes and activities of employers? Are there any types of workplace or work activity which you believe have had particular difficulties with applying the Regulations? If so, please describe them and why.*

IOSH believes the regulations themselves are flexible enough for different sizes and activities of organisation. However, smaller employers may have greater difficulty in referring to or applying the relevant requirements of the regulations. We would suggest a separate short piece of guidance specifically aimed at SMEs on this could be helpful.

3) *Have you any issues about the scope of the Regulations? If so, please describe them.*

We believe the regulations should continue to apply to the self-employed and that first-aid training should continue to be approved. We have also recommended strengthening MHSWR, RIDDOR and merging of the safety representatives' regulations (see answer to question 9 below).

4) *What has been your experience of employers' application of the Regulations in shared workplaces? Have you identified any barriers to cooperation between employers? If so, please describe them.*

IOSH is aware of some disparity in application depending on the size / resources of the organisations sharing the workplace. We understand that larger companies with their own competent advice find it easier to apply the regulations; while SMEs can find it more difficult.

5) *What has been your experience of employers' application of the risk assessment and principles of risk prevention requirements in the Management of Health and Safety at Work Regulations? Have you identified any particular difficulties? If so, please describe them.*

IOSH believes that the fundamental role of risk assessment in risk prevention is now well-established in the organisations our members advise and that this is partly due to the useful ACoP supporting MHSWR. In particular, the ACoP section explaining that there is no need to repeat risk assessments, as long as all significant risks are covered, is cited as having been useful in reducing bureaucracy and demands on businesses. And in our 2011 member survey with 228 respondents (conducted to help inform our submission to the 2011 Löfstedt review),¹⁰ over a third specifically singled out the Management of Health and Safety at Work Regulations for praise.

However, we suggest there should be greater clarity of the terms 'suitable and sufficient', communicated in a way that businesses more readily understand, supported by relevant examples. And also, there should be a clearer definition of competent OSH assistance.

6) *What has been your experience of employers' application of the requirement in the Management of Health and Safety at Work Regulations to appoint a competent person (either in-house or an external service) to assist with them providing preventative and protective measures in the workplace? Are there are problems by size of organisation? If so, please describe them.*

IOSH believes that larger organisations find it easier to source a competent person and that this is probably aided by their HR departments and economies of scale. SMEs on the other hand, as mentioned in the answer to question 1 above, may find it difficult to apply the regulations regarding appointing a competent person because they may not have someone suitable or available in-house; may not know how to select a competent external provider; or may feel that they cannot afford to pay a consultant.

IOSH has long-called for a clearer government definition of competent OSH assistance to help duty holders and in particular, small firms, to understand the requirements. This is important so that they can assess whether they can meet their needs internally and what further training and development might be required; and also to recognise when they need external assistance and how to identify competent providers. We believe this should be clarified in the MHSWR.

IOSH has produced two free guides on working with consultants, which are both downloadable from our website:

- Consultancy – good practice guide: this guide is for health and safety practitioners who work as consultants or who are considering becoming consultants www.iosh.co.uk/goodpractice
- Getting help with health and safety: this guide outlines the key points to be considered when engaging a health and safety consultant www.iosh.co.uk/gettinghelp

IOSH was pleased to be involved in the development of a government-recognised national register for OSH consultants (OSHCR),¹⁸ which we believe should help those seeking competent external expertise. We understand that HSE will be monitoring and evaluating usage of this register and that there may be further refinement of the entry requirements for practitioners.

The 2011 guide on health and safety for SMEs and others from the insurance industry (Health and safety for businesses and the voluntary sector: key principles)²⁷ recommends use of OSHCR for those wishing to engage external OSH services. We think it would be helpful for other trade or professional associations to do the same.

7) Have you identified any particular problems in small and medium sized enterprises in their application of the Regulations? If so, please describe them.

Please see the IOSH response to questions 4 to 6 above.

Some SMEs struggle with risk assessment (preferring a more prescriptive approach) and may also have difficulties with appointing a competent person.

8) Have you taken any measures to support employers in applying the Regulations? If so, please describe them.

IOSH provides the following free tools to help support employers in complying with the regulations:

- WHAC – free on-line learning materials for a Workplace Hazard Awareness Course for year-10 pupils to introduce the basics of sensible risk management www.wiseup2work.co.uk, as well as a short guide ‘Getting off to a good start’ www.iosh.co.uk/guidance
- Safestartup – free downloadable health and safety guides on various occupations for small firms (e.g. building trades and hairdressers) and business start-ups www.safestartup.org
- Occupational health toolkit – ‘one-stop-shop’ for SMEs to access information on common occupational health issues such as musculoskeletal disorders, stress, inhalation disorders and skin conditions; and non work-related conditions such as pregnancy, stroke, diabetes, heart disease and cancer www.iosh.co.uk/ohtoolkit
- Risk assessment routefinder – a free on-line resource providing information and guidance on a wide variety of business risks, including OSH www.ioshroutefinder.co.uk
- Getting help with health and safety – a free guide for employers on how to engage suitable external assistance www.iosh.co.uk/gettinghelp

IOSH also has a health and safety enquiry line and we actively support the Leicestershire ‘Better Business for All’ initiative.²⁸

9) Do you have any suggestions for simplifying the requirements of the Regulations or making their practical implementation easier? If so, please describe them.

IOSH firmly believes that the ACoP supporting MHSWR should be retained as a useful resource for businesses and competent persons, enabling more efficient application of the regulations. The ACoP reduces the demands on organisations because they do not need to interpret the legal terms used in the regulations or verify that they are doing sufficient to be compliant. The ACoP should be revised to help compliance.

IOSH also believes that the Safety Representatives and Safety Committees Regulations 1977; and Health and Safety (Consultation with Employees) Regulations 1996 should be consolidated into one set of regulations in order to simplify the requirements, address any inequity and reflect modern employment trends.

Sources of free / low-cost, reliable OSH advice (such as from insurers, regulators, trade and professional bodies) should be publicised more to SMEs. To help support compliance, IOSH believes that the HSE Infoline and levels of proactive inspections should be restored and also that there should be a clearer definition of OSH competence in MHSWR.

Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace

Transposed in the UK by the Workplace (Health, Safety and Welfare) Regulations 1992

1) Is the definition of a 'workplace' under the Regulations clear? Have you noticed any problems that employers' have had with interpreting the definition?

IOSH understands that some employers are confused about the application of the workplace regulations to temporary and mobile workplaces and also to outdoor work activity. Clearer guidance and examples of these situations would be useful. HSE's work to update and improve the ACoP L24 could provide an opportunity to do this.

HSE's L24 'user survey' conducted in November 2012 could also provide information on areas for improvement. IOSH was pleased to invite our members to take part in this on-line survey via our electronic newsletter.

2) Are there any requirements of the Regulations that you believe should be disapplied to certain workplaces? If so, please describe them and why.

IOSH believes that in order to protect the safety health and welfare of employees, there should be no disapplication of particular requirements, but greater clarity of where and when the regulations apply.

3) Have you identified any particular problems in small and medium sized enterprises in their application of the Regulations? If so, please describe them.

Clear, practical guidance should be provided for SMEs, supported by proactive regulator visits offering advice before injury / damage occurs and enforcement becomes necessary.

HSE's L24 'user survey' conducted in November 2012 could also provide information on areas for improvement. IOSH was pleased to invite our members to take part in this on-line survey via our electronic newsletter.

4) Have you taken any measures to support employers in applying the Regulations? If so, please describe them.

Yes, to support employers in applying the 'workplace regulations', IOSH has provided free guidance for small firms via our 'Safestartup' web pages and our 'Risk assessment routefinder' tool.

- Safestartup – free downloadable health and safety guides on various occupations for small firms (e.g. building trades and hairdressers) and business start-ups www.safestartup.org
- Risk assessment routefinder – a free on-line resource providing information and guidance on a wide variety of business risks, including OSH www.ioshroutefinder.co.uk

5) *Do you have any suggestions for simplifying the requirements of the Regulations or making their practical implementation easier? If so, please describe them.*

IOSH believes that the Workplace (Health, Safety and Welfare) Regulations are effective in helping to protect employees and that the supporting ACoP provides a useful resource for employers. The ACoP reduces the demands on organisations because they do not need to interpret the legal terms used in the regulations or verify that they are doing sufficient to be compliant. We think that updating and improving the content and presentation of the ACoP for duty holders could further help encourage and facilitate compliance and standards.

IOSH notes and supports HSE's plans to update L24 as outlined in the recent ACoPs consultation (CD241)²⁹ and in the following areas: building stability; workplace insulation and excessive sunlight and temperature; accommodating for disability; falls from height; traffic signs; smoking; Construction (Design and Management) Regulations 2007; and Quarries Regulations 1999.

HSE's L24 'user survey' conducted in November 2012 could also provide information on areas for improvement. IOSH was pleased to invite our members to take part in this on-line survey via our electronic newsletter.

Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed- duration employment relationship or a temporary employment relationship

Transposed in the UK by the Management of Health and Safety at Work Regulations 1999, as amended

1) *What has been your experience of employers' providing temporary workers with:*

- ***Health surveillance, where required.***
- ***Training and instruction on specific risks that they might face before starting a work activity.***

We suggest that it would be useful to raise awareness among temporary workers of their rights regarding health surveillance and instruction and training, for example via the HSE migrant workers web pages. The HSE page for temporary workers contains a leaflet 'Your health, your safety – a guide for workers',³⁰ but this could be made more user-friendly, reducing the density of text and removing the out-of-date reference to contacting the HSE Infoline. Temporary workers who are not working legally could be vulnerable and their employers may not provide them with appropriate training, instruction and health surveillance.

2) *Have you identified any particular problems in small and medium sized enterprises in their application of the Regulations? If so, please describe them.*

SMEs need to understand when health surveillance is compulsory and to have access to advice on what is required and how to provide it, linking to the HSE website information for employers on health surveillance. The temporary worker and migrant worker HSE sites could both do more to raise awareness about health surveillance.

3) *Have you taken any measures to support employers in applying the Regulations to temporary workers? If so, please describe them*

The IOSH Occupational health toolkit provides one-stop-shop' for employers on managing workers' occupational health issues such as musculoskeletal disorders, stress, inhalation disorders and skin conditions; and non work-related conditions such as pregnancy, stroke, diabetes, heart disease and cancer www.iosh.co.uk/ohtoolkit. The toolkit acts as a signpost resource to useful information sources and covers health surveillance.

4) Do you have any suggestions for simplifying the requirements of the Regulations that apply to temporary workers or making their practical implementation easier? If so, please describe them.

As temporary workers should be treated in the same way as other employees regarding health surveillance, risk assessment and instruction and training – we suggest more inclusive terminology such as ‘all employees, including temporary workers’ could be helpful.

We understand that a new HSE website section on health surveillance is due to be launched soon and this would be a good opportunity to raise awareness of the requirements for temporary workers. It would be helpful for employers if HSE outlined the health surveillance requirements for temporary and agency workers (making reference to the duration of their employment); the record keeping requirements; and what should happen to the records when the temporary or agency worker moves on.

Directive 92/58/EEC on the minimum requirements for the provision of safety and/or health signs at work

Transposed in the UK by the Health and Safety (Safety Signs and Signals) Regulations 1996

1) *Is the scope of the Regulations still appropriate? Should the requirements extend to those activities disapplied under Regulation 3(1)? If so, please describe why?*

IOSH believes that scope of the Health and Safety (Safety Signs and Signals) Regulations is still appropriate. However, this would need to be reconsidered if the government's review of legislation (post Löfstedt) made changes to affect the relevant regulatory requirements of those disapplied.

2) *Have you encountered any problems experienced by employers' between signs specified in the Regulations and those specified in international standards? If so, please describe.*

In response to this consultation question, one IOSH member commented "In the past I have found some manufacturers' interpretation of the directive and the 'safety signs and signals' regulations produced an exit sign (Euro sign) which is in conflict with BS 5499."

3) *Have you identified any particular problems in small and medium sized enterprises in their application of the Regulations? If so, please describe them.*

IOSH are aware that SMEs can be difficult to reach with practical health and safety advice. We understand that fire signage can cause issues for SMEs and uncertainty over standards and replacement of out-of-date signage.

4) *Have you taken any measures to support employers in applying the Regulations? If so, please describe them.*

Various IOSH training materials cover appropriate workplace health and safety signage. We also provide a health and safety enquiry line and a public forum on our website. We are closely involved with OSHCR where employers can access competent OSH services and advice.

5) *Do you have any suggestions for simplifying the requirements of the Regulations or making their practical implementation easier? If so, please describe them.*

In our 2002 response to the government consultation on the reform of fire safety legislation, IOSH recommended that the provisions of the Health and Safety (Safety Signs and Signals) Regulations should be incorporated into the Regulatory Reform (Fire Safety) Order to cover signage and signals.³¹

Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding

Transposed in the UK by the Management of Health and Safety at Work Regulations 1999, as amended

1) Have you identified any particular problems in small and medium sized enterprises in their application of the Regulations to pregnant workers? If so, please describe them

IOSH has found through some of our members that managers or business owners, particularly in small enterprises, can feel ill-equipped to undertake risk assessment for new and expectant mothers. Clearly, small businesses where there are few suitable alternative roles or opportunities to adjust duties, can find it difficult to make work adjustments for pregnant workers and so suspension on paid leave may be the only viable option.

2) Have you taken any measures to support your employers in applying the Regulations to pregnant workers? If so, please describe them.

IOSH provides a 'Pregnancy' module as part of our Occupational health toolkit's managing non work-related conditions section. We also provide a section on 'maternity leave' in our 'Healthy return' guide.³²

IOSH was pleased to provide input to the HSE 2002 consultations³³ on two draft documents: 'New and expectant mothers at work – a guide for health professionals' and 'A guide for new and expectant mothers who work'.

3) Do you have any suggestions for simplifying the requirements of the Regulations that apply to pregnant workers or making their practical implementation easier? If so, please describe them.

IOSH believes the requirements of the regulations are fit for purpose.

Directive 94/33/EC on the protection of young people at work

Transposed in the UK by the Management of Health and Safety at Work Regulations 1999, as amended

1) Have you identified any particular problems in small and medium sized enterprises in their application of the Regulations to young workers? If so, please describe them

For young workers on two-week work experience or apprentices, SMEs can be less effective than larger employers at providing workplace induction (at each new location of work) or supervision. Health and safety training can mistakenly be regarded by some as mainly a school or college activity, rather than a workplace one, with information transfer and practical application from the theory provided in school / college, being the weakest element. There is a need to ensure that health and safety is fully integrated into all training.

2) Have you taken any measures to support employers in applying the Regulations to young workers? If so, please describe them.

IOSH provides free teaching resources for schools and colleges delivering a Workplace Hazard Awareness Course (WHAC) designed for teenagers. It is usually taught in schools in year-10 as part of PSHE and can also be used for college induction training. It was developed by IOSH with help from the HSE and is designed to introduce some basic hazard awareness and help prepare young people for their work experience or first job. The course has more than 20 activities, takes 6 – 8 hours to deliver and can lead to the entry-level award in Workplace Hazard Awareness. Teachers or trainers running free courses can download the course materials, which include an interactive presentation with film clips, a teacher guide, student workbook, evidence sheets and extension work. In addition, we provide a short guide 'Getting off to a good start', outlining what health and safety professionals and employers can do to make workplaces safer for young adults www.iosh.co.uk/guidance.

For over 10 years, IOSH has been promoting the importance of risk education for young workers. Building on foundations that should be laid in schools, IOSH is calling for the education system in the UK to deliver relevant health and safety elements for vocational and professional curricula, such as for architects, planners, designers, engineers, managers and doctors. Having started in schools, the education process must continue through further and higher education, vocational and professional training and on into individual workplaces, as part of life-long learning. To help support this, we have been pleased to introduce health and safety awareness awards to the Young Enterprise 'Company Programme'. This encourages skill development and sensible risk management in young people, helping engender a positive approach to health and safety in tomorrow's workforce, business leaders and entrepreneurs. IOSH has also supported the

development of health and safety teaching materials for engineering undergraduates.³⁴ This is all part of our overall aim of helping create a more 'risk intelligent' society.¹⁰

Between 2006-10, IOSH ran our 'Putting young workers first' campaign, aiming to improve teacher training; health and safety teaching in the classroom; the organisation of safe work placements; supervision of young people at work; reporting of accidents to young people; and emphasis on health and safety in government-funded programmes. In 2007, we also provided a submission for the EU OSH Strategy 2007-12, in which we highlighted the need to embed health and safety in the education and training systems across Europe.³⁵

To further encourage employers to provide safe, healthy and supportive working environments for all, IOSH's current campaign, Li£e Savings³⁶ (launched May 2011), seeks to influence the behaviour of more employers by highlighting the economic argument complementing the legal and moral imperatives for health and safety, which will also benefit young workers.

The aims of our Li£e Savings campaign include:

- To help businesses to get the most out of their health and safety management and add saving money to the benefits of keeping their workforce healthy and safe and staying on the right side of the law
- To help OSH practitioners working in thousands of organisations up and down the UK to make sure that their employers are getting the best out of their corporate budgets

We provide lots of tools, case studies and other materials to inspire and support organisations and to help get good health and safety firmly on the agenda.

3) *Do you have any suggestions for simplifying the requirements of the Regulations that apply to young workers or making their practical implementation easier? If so, please describe them.*

IOSH suggests there could be more clarity on the requirements of the young persons' risk assessment and emphasis on the importance of effective supervision. Supervisors have a key role to play in relation to young workers or apprentices, as guides, coaches, mentors and role models. They need good communication skills and to be able to build rapport with young people, which is not always as easy, as some teenagers have under-developed social skills. Supervisors need sufficient competence to manage the hazards and minimise the risks; sufficient time to devote to supervisory duties; and a positive corporate culture that supports them in supervising well.

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About IOSH

Founded in 1945, the Institution of Occupational Safety and Health (IOSH) is the largest body for health and safety professionals in the world, with around 41,500 members in over 85 countries, including over 13,000 Chartered Safety and Health Practitioners. Incorporated by Royal Charter, IOSH is a registered charity, and an ILO international NGO and CIS collaborating centre. The IOSH vision is:

“A world of work which is safe, healthy and sustainable”

The Institution steers the profession, providing impartial, authoritative, free guidance. Regularly consulted by government and other bodies, IOSH is the founding member to UK, European and International professional body networks. IOSH has an active [research and development](#) fund and programme, helping develop the evidence-base for health and safety policy and practice. Summary and full reports are freely accessible from our website. IOSH publishes an international peer-reviewed journal of academic papers twice a year titled *Policy and practice in health and safety*. We have also developed a unique UK resource providing free access to a health and safety research database, as well other free on-line tools and guides, including websites for business start-ups and young people; an occupational health toolkit; and a risk management tool for small firms.

IOSH has 30 Branches in the UK and worldwide including the Caribbean, Hong Kong, Isle of Man, Middle East, the Republic of Ireland and Singapore, 17 special interest groups covering aviation and aerospace; communications and media; construction; consultancy; education; environment; fire risk management; food and drink; hazardous industries; healthcare; international; offshore; public services; railways; retail and distribution; rural industries; and sports grounds and events. IOSH members work at both strategic and operational levels across all employment sectors. IOSH accredited trainers deliver health and safety awareness training to all levels of the workforce from shop floor to managers and directors, through a professional training network of more than 1,600 organisations. We issue around 100,000 certificates per year.

For more about IOSH, our members and our work please visit our website at www.iosh.co.uk

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